

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**CHARLES POOLE**

**PLAINTIFF,**

**v.**

**WALMART, INC., WAL-MART  
STORES TEXAS, LLC**

**DEFENDANTS.**

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§

**CIVIL ACTION NO.:** \_\_\_\_\_

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**INDEX OF STATE COURT PLEADINGS AND FILING DATES**

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<b>TAB</b>	<b>DOCUMENT</b>	<b>DATE</b>
1.	State Court Docket Sheet of the County Court at Law No. 1, Dallas, County Texas	09/08/2021
2.	Plaintiff's Original Petition	07/30/2021
3.	Citation Issued to Defendant Walmart, Inc.	07/30/2021
4.	Citation Issued to Defendant Wal-Mart Stores, Texas, LLC	07/30/2021
5.	Return of Service as to Defendant Walmart, Inc.	08/09/2021
6.	Return of Service as to Defendant Wal-Mart Stores , Inc.	08/09/2021
7.	Defendant's Wal-Mart Stores Texas, LLC's Original Answer to Plaintiff's Original Complaint	08/27/2021
8.	Jury Trial Demand	08/27/2021

# TAB NO. 1

Case Information

CC-21-03100-A | CHARLES POOLE vs.WALMART, INC, WAL-MART STORES TEXAS, LLC

Case Number	Court	Judicial Officer
CC-21-03100-A	County Court at Law No. 1	BENSON, D'METRIA
File Date	Case Type	Case Status
07/30/2021	DAMAGES (NON COLLISION)	OPEN

Party

PLAINTIFF  
POOLE, CHARLES

Active Attorneys ▼  
Lead Attorney  
BOHUSLAV, MONICA I.  
Retained

DEFENDANT  
WALMART, INC

Address  
SERVE ITS REGISTERED AGENT: CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS TX 75201

DEFENDANT  
WAL-MART STORES TEXAS, LLC

Address  
SERVE ITS REGISTERED AGENT: CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS TX 75201

Active Attorneys ▼  
Lead Attorney  
DAVIS, DEREK S.  
Retained

## Events and Hearings

07/30/2021 NEW CASE FILED (OCA)

07/30/2021 ORIGINAL PETITION ▼

PLAINTIFF S ORIGINAL PETITION

Comment

PLAINTIFF S ORIGINAL PETITION

07/30/2021 ISSUE CITATION ▼

ISSUE CITATION

ISSUE CITATION

Comment

E-SERVE ENV# 55896516

08/02/2021 CITATION (SERVICE) ▼

Served

08/09/2021 12:41 PM

Anticipated Server

ATTORNEY

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

08/31/2021 11:10 AM

Served

08/09/2021 12:41 PM

Anticipated Server

ATTORNEY

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

08/10/2021 4:20 PM

08/10/2021 RETURN OF SERVICE ▼

RETURN OF SERVICE

Comment

SERVED WAL-MART STORES TEXAS LLC, 8/9/21 AT 2:41 PM

08/27/2021 ORIGINAL ANSWER ▼

DEFENDANT'S ORIGINAL ANSWER

Comment

DEFENDANT'S ORIGINAL ANSWER

08/27/2021 CORRESPONDENCE - LETTER TO FILE ▼

JURY FEE

Comment

JURY FEE

08/30/2021 JURY TRIAL DEMAND

08/31/2021 RETURN OF SERVICE ▼

RETURN OF SERVICE

Comment

SERVED WALMART INC, 8/9/21 AT 2:41 PM

## Financial

WAL-MART STORES TEXAS, LLC

Total Financial Assessment	\$40.00
----------------------------	---------

Total Payments and Credits	\$40.00
----------------------------	---------

8/30/2021	Transaction			\$40.00
	Assessment			

8/30/2021	CREDIT CARD -	Receipt # CV-2021-	WAL-MART STORES	(\$40.00)
	TEXFILE (CC)	08881	TEXAS, LLC	

POOLE, CHARLES

Total Financial Assessment	\$285.00
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Total Payments and Credits	\$285.00
----------------------------	----------

7/30/2021	Transaction Assessment			\$285.00
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7/30/2021	CREDIT CARD - TEXFILE	Receipt # CV-2021-	POOLE,	(\$285.00)
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(CC)

07724

CHARLES

## Documents

PLAINTIFF S ORIGINAL PETITION

ISSUE CITATION

ISSUE CITATION

RETURN OF SERVICE

DEFENDANT'S ORIGINAL ANSWER

JURY FEE

RETURN OF SERVICE

# **TAB NO. 2**

CAUSE NO. CC-21-03100-A

**CHARLES POOLE**  
**Plaintiff**§  
§  
§  
§  
§  
§  
§**IN THE COUNTY COURT**

vs.

\_\_\_\_ AT LAW NO \_\_\_\_

**WALMART, INC.; WAL-MART**  
**STORES TEXAS, LLC**  
**Defendant**

§

**DALLAS COUNTY, TEXAS****PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Charles Poole (also "Plaintiff") complaining of and about Walmart, Inc. and Wal-Mart Stores Texas, LLC (also collectively "Defendants"), corporations and for cause of action would show unto the Court the following:

**I.****DISCOVERY CONTROL PLAN**

1.1 Pursuant to Texas Rules of Civil Procedure Rule 190, discovery for this cause is intended to be conducted under Level 3. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff's counsel states that Plaintiff seeks monetary relief in a sum greater than \$1,000,000. The amount of monetary relief actually awarded, however, will ultimately be determined by a jury. Plaintiff also seeks pre-judgment and post judgment interest at the highest legal rate.

**II.****JURISDICTION AND VENUE**

2.1 This Court has jurisdiction over the subject matter because the damages sought by the



Plaintiff are within the jurisdictional limits of the Court.

2.2. This Court has jurisdiction over the parties because Defendant is a non-resident who has purposefully availed themselves of the privileges and benefits of conducting business in Texas, and/or committed a tort which is the subject of this lawsuit.

2.3. Venue is proper in Dallas County, Texas under the Texas Civil Practices and Remedies Code §15.002(a)(3) since Defendant Wal-Mart Stores Texas, LLC's principal office, in the State, is in Dallas County.

2.4. The amount in controversy exceeds the minimum jurisdictional limit of this Court.

### **III. PARTIES AND SERVICE**

3.1. Plaintiff Charles Poole resides in Coppell, Denton County, Texas.

3.2. Defendant Walmart, Inc. (hereinafter referred to as "Defendant Walmart"), is a Delaware company duly licensed to transact business within the State of Texas. This Defendant may be served with process by its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

3.3. Defendant Wal-Mart Stores Texas, LLC (hereinafter referred to as "Defendant Wal-Mart Texas"), is a Delaware company duly licensed to transact business within the State of Texas. This Defendant may be served with process by its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

### **IV. FACTS**

4.1 On or about June 06, 2020, Plaintiff Charles Poole was an invitee on the premises of Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC supercenter store number

5092 located at 190 E. Round Grove Road. At approximately 10:00 a.m., Mr. Poole went into the Defendants' premises to go to the bank, look at some garden sheers, and grab some McDonalds. As Mr. Poole was near the entrance/exit of the store and passing in front of the ice freezer/merchandise, he slipped and fell on liquid that was on the floor.

4.2. Subsequent to the fall, it was discovered that the substance on which Mr. Poole fell was melted ice from the ice freezer/merchandise as the mat placed in the area was saturated and water was leaking from the mat. This condition was unknown to Mr. Poole, and it was the cause of his fall and subsequent injuries. Further, Defendants had both actual and constructive knowledge of the dangerous condition that caused Plaintiff to slip and fall due to its proximity to the front entry greeter and front registers. Notwithstanding same, Defendants failed to remedy or warn Mr. Poole of it.

4.3 Plaintiff suffered serious bodily injury as a result of the fall which was proximately caused by the dangerous condition of the liquid on the floor.

## **V. PREMISES LIABILITY**

5.1 Plaintiff was a business invitee on the premises located of Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC

5.2 Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC is the owner and occupier of the store where the incident which forms the basis of this lawsuit occurred.

5.3 The liquid on the floor in front of the ice freezer/merchandise created a dangerous condition on said premises.

5.4 Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC knew or reasonably should have known of the above-referenced dangerous condition on said premises.

5.5 Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC owed a duty to Plaintiff as a business invitee to warn of said dangerous condition and to make the dangerous condition safe. Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC breached this duty by failing to warn and failing to make safe this dangerous condition.

5.6 Said breach by Defendant Walmart, Inc. and/or Defendant Wal-Mart Stores Texas, LLC proximately caused the injuries of Plaintiff complained of herein.

**VI.**  
**DAMAGES OF PLAINTIFF CHARLES POOLE**

6.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was injured. For any damages that will endure for life of Plaintiff, please refer to National Vital Statistics Reports United States Life Tables, 2006, for expected life of Plaintiff. Plaintiff demands compensation for the following damages:

1. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;
2. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
3. Physical pain in the past;
4. Mental anguish in the past;
5. Physical pain which will, in all reasonable probability, be suffered in the future;
6. Mental anguish which will, in all reasonable probability, be suffered in the future;

7. Loss of earnings in the past;
8. Loss of future earning capacity;
9. Physical disfigurement in the past;
10. Physical disfigurement in the future;
11. Physical impairment in the past; and
12. Physical impairment in the future.

6.2 By reason of all of the above, Plaintiff has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

## **VII.**

### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant Walmart, Inc. and Defendant Wal-Mart Stores Texas, LLC be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully Submitted,  
**THE MARYE LAW FIRM, P.C.**

/s/ Monica I. Bohuslav

**ERIC H. MARYE**

State Bar of Texas No. 24004798

[service@maryelaw.com](mailto:service@maryelaw.com)

**MONICA I. BOHUSLAV**

State Bar of Texas No. 24074250

[mbohuslav@maryelaw.com](mailto:mbohuslav@maryelaw.com)

2619 Hibernia Street

Dallas, Texas 75204

Phone: (214) 987-8240

Fax: (214) 987-8241

**ATTORNEYS FOR PLAINTIFF**

# **TAB NO. 3**

**THE STATE OF TEXAS  
CITATION**

CAUSE NO. CC-21-03100-A  
COUNTY COURT AT LAW NO. 1  
Dallas County, Texas

TO:

**WALMART, INC  
SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

“You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.” Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

**CHARLES POOLE  
*Plaintiff(s)***

**VS.**

**WALMART, INC; WAL-MART STORES TEXAS, LLC  
*Defendant(s)***

filed in said Court on the 30th day of July, 2021, a copy of which accompanies this citation.

**WITNESS: JOHN F. WARREN**, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 2nd day of August, 2021 A.D.

JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez Deputy  
Guisla Hernandez



**ATTORNEY**

**CITATION  
PLAINTIFF'S ORIGINAL PETITION**

**CC-21-03100-A**

IN THE COUNTY COURT OF DALLAS  
County Court at Law No. 1  
Dallas County, Texas

CHARLES POOLE, *Plaintiff(s)*

**VS.**

WALMART, INC; WAL-MART  
STORES TEXAS, LLC, *Defendant(s)*

**SERVE:**

**WALMART, INC  
SERVE ITS REGISTERED AGENT  
CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

**ISSUED THIS  
2ND DAY OF AUGUST, 2021**

JOHN F. WARREN, COUNTY CLERK  
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

MONICA I. BOHUSLAV  
Attn THE MARYE FIRM  
2619 HIBERNIA ST  
DALLAS TX 75204  
214-987-8240

**NO OFFICER'S FEES HAVE BEEN  
COLLECTED BY DALLAS COUNTY CLERK**

**OFFICER'S RETURN**

CC-21-03100-A County Court at Law No. 1

CHARLES POOLE vs. WALMART, INC, WAL-MART STORES TEXAS, LLC

**ADDRESS FOR SERVICE:**

SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201

**Fees:**

Came to hand on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_ .m., and executed in \_\_\_\_\_ County, Texas by delivering to WALMART, INC in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
------	-----------	--

_____	_____	_____
_____	_____	_____

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being:

\_\_\_\_\_

and the cause or failure to execute this process is:

\_\_\_\_\_

and the information received as to the whereabouts of said defendant(s) being:

\_\_\_\_\_

Serving Petition and Copy \$ \_\_\_\_\_, Officer

Total \$ \_\_\_\_\_, County, Texas

By: \_\_\_\_\_, Deputy

\_\_\_\_\_, Affiant



# **TAB NO. 4**

**THE STATE OF TEXAS  
CITATION**

CAUSE NO. CC-21-03100-A  
COUNTY COURT AT LAW NO. 1  
Dallas County, Texas

TO:

**WAL-MART STORES TEXAS, LLC  
SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

“You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.” Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

**CHARLES POOLE**  
*Plaintiff(s)*

VS.

**WALMART, INC; WAL-MART STORES TEXAS, LLC**  
*Defendant(s)*

filed in said Court on the 30th day of July, 2021, a copy of which accompanies this citation.

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JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez, Deputy  
Guisla Hernandez



**ATTORNEY**

**CITATION  
PLAINTIFF'S ORIGINAL PETITION  
CC-21-03100-A**

IN THE COUNTY COURT OF DALLAS  
County Court at Law No. 1  
Dallas County, Texas

CHARLES POOLE, *Plaintiff(s)*

VS.

WALMART, INC; WAL-MART  
STORES TEXAS, LLC, *Defendant(s)*

**SERVE:**

**WAL-MART STORES TEXAS, LLC  
SERVE ITS REGISTERED AGENT  
CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

**ISSUED THIS  
2ND DAY OF AUGUST, 2021**

JOHN F. WARREN, COUNTY CLERK  
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

MONICA I. BOHUSLAV  
Attn THE MARYE FIRM  
2619 HIBERNIA ST  
DALLAS TX 75204  
214-987-8240

**NO OFFICER'S FEES HAVE BEEN  
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**OFFICER'S RETURN**

CC-21-03100-A County Court at Law No. 1

CHARLES POOLE vs. WALMART, INC, WAL-MART STORES TEXAS, LLC

**ADDRESS FOR SERVICE:**

SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
 1999 BRYAN STREET SUITE 900  
 DALLAS TX 75201

**Fees:**

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .m., and executed in \_\_\_\_\_ County, Texas by delivering to WAL-MART STORES TEXAS, LLC in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____
_____	_____	_____

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being:

\_\_\_\_\_

and the cause or failure to execute this process is:

\_\_\_\_\_

and the information received as to the whereabouts of said defendant(s) being:

\_\_\_\_\_

Serving Petition and Copy \$ \_\_\_\_\_, Officer

Total \$ \_\_\_\_\_, County, Texas

By: \_\_\_\_\_, Deputy

\_\_\_\_\_, Affiant

# **TAB NO. 5**

**THE STATE OF TEXAS  
CITATION**

CAUSE NO. CC-21-03100-A  
COUNTY COURT AT LAW NO. 1  
Dallas County, Texas

TO:

**WAL-MART STORES TEXAS, LLC  
SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Your answer should be addressed to the clerk of County Court at Law No. 1 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

**CHARLES POOLE  
Plaintiff(s)**

VS.

**WALMART, INC; WAL-MART STORES TEXAS, LLC  
Defendant(s)**

filed in said Court on the 30th day of July, 2021, a copy of which accompanies this citation.

**WITNESS: JOHN F. WARREN**, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 2nd day of August, 2021 A.D.

JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez, Deputy  
Guisla Hernandez



**ATTORNEY**

**CITATION**

**PLAINTIFF'S ORIGINAL PETITION**

**CC-21-03100-A**

IN THE COUNTY COURT OF DALLAS  
County Court at Law No. 1  
Dallas County, Texas

CHARLES POOLE, *Plaintiff(s)*

VS.

WALMART, INC; WAL-MART  
STORES TEXAS, LLC, *Defendant(s)*

**SERVE:**

**WAL-MART STORES TEXAS, LLC  
SERVE ITS REGISTERED AGENT  
CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201**

**ISSUED THIS  
2ND DAY OF AUGUST, 2021**

JOHN F. WARREN, COUNTY CLERK  
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

MONICA I. BOHUSLAV  
Attn THE MARYE FIRM  
2619 HIBERNIA ST  
DALLAS TX 75204  
214-987-8240

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OFFICER'S RETURN

CC-21-03100-A County Court at Law No. 1

CHARLES POOLE vs. WALMART, INC, WAL-MART STORES TEXAS, LLC

ADDRESS FOR SERVICE:

SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201

Fees:

Came to hand on the 06 day of August, 20 21, at 4:00 o'clock P.m., and executed in Dallas County, Texas by delivering to WAL-MART STORES TEXAS, LLC in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
CT CORP (TOMMY TERNANZANA)	8/9/2021 2:4 PM	1999 BRYAN ST. #900, DALLAS, TX 75201

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

SWORN TO AND SUBSCRIBED BEFORE ME  
ON THIS 10 DAY OF August 20 21

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ 75.00

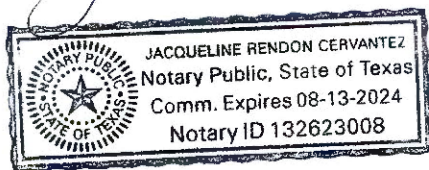
STEVEN V. FRIEDENTHAL, Officer

DALLAS, County, Texas

By: [Signature], Deputy

[Signature], Affiant

152830  
Gx 10/21/2022



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 56180987

Status as of 8/11/2021 10:14 AM CST

Associated Case Party: CHARLES POOLE

Name	BarNumber	Email	TimestampSubmitted	Status
Claudia Mendoza		cmendoza@maryelaw.com	8/10/2021 4:20:25 PM	SENT
Christina Wies		cwies@maryelaw.com	8/10/2021 4:20:25 PM	SENT
Monica I.Bohuslav		mbohuslav@maryelaw.com	8/10/2021 4:20:25 PM	SENT
Eric HMarye		service@maryelaw.com	8/10/2021 4:20:25 PM	SENT

**TAB NO. 6**



**THE STATE OF TEXAS  
CITATION**

CAUSE NO. CC-21-03100-A  
COUNTY COURT AT LAW NO. 1  
Dallas County, Texas

TO:

WALMART, INC  
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CHARLES POOLE  
*Plaintiff(s)*

VS.

WALMART, INC; WAL-MART STORES TEXAS, LLC  
*Defendant(s)*

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JOHN F. WARREN, Dallas County Clerk

By Guisla Hernandez Deputy  
Guisla Hernandez



**ATTORNEY  
CITATION  
PLAINTIFF'S ORIGINAL PETITION**

**CC-21-03100-A**

IN THE COUNTY COURT OF DALLAS  
County Court at Law No. 1  
Dallas County, Texas

CHARLES POOLE, *Plaintiff(s)*

VS.

WALMART, INC; WAL-MART  
STORES TEXAS, LLC, *Defendant(s)*

**SERVE:**

WALMART, INC  
SERVE ITS REGISTERED AGENT  
CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201

ISSUED THIS  
2ND DAY OF AUGUST, 2021

JOHN F. WARREN, COUNTY CLERK  
BY: GUISLA HERNANDEZ, DEPUTY

Attorney for Plaintiff

MONICA I. BOHUSLAV  
Attn THE MARYE FIRM  
2619 HIBERNIA ST  
DALLAS TX 75204  
214-987-8240

NO OFFICER'S FEES HAVE BEEN  
COLLECTED BY DALLAS COUNTY CLERK

OFFICER'S RETURN

CC-21-03100-A County Court at Law No. 1

CHARLES POOLE vs. WALMART, INC, WAL-MART STORES TEXAS, LLC

ADDRESS FOR SERVICE:

SERVE ITS REGISTERED AGENT CT CORPORATION SYSTEM  
1999 BRYAN STREET SUITE 900  
DALLAS TX 75201

Fees:

Came to hand on the 06 day of August, 20 21, at 4:00 o'clock p.m., and executed in DALLAS County, Texas by delivering to WALMART, INC in person, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
CT CORP ( <del>1999 BRYAN STREET SUITE 900</del> )	8/9/20 2:41 PM	1999 BRYAN ST. #900, DALLAS, TX. 75201

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

Steven Friedenthal  
SWORN TO AND SUBSCRIBED BEFORE ME  
ON THIS 10 DAY OF August 20 21

Serving Petition and Copy \$ \_\_\_\_\_

Total \$ 75.00

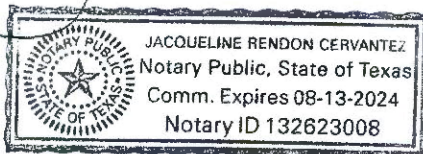
STEVEN J. HALE/PLAINTIFF, Officer

DENTON, County, Texas

By: [Signature], Deputy

[Signature], Affiant

18870  
EX 10/31/2022



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 56815636

Status as of 8/31/2021 11:24 AM CST

Associated Case Party: WAL-MART STORES TEXAS, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Kim Denton		kim.denton@cooperscully.com	8/31/2021 11:10:30 AM	SENT
Derek Davis		derek.davis@cooperscully.com	8/31/2021 11:10:30 AM	SENT
Karri Minster		Karri.Minster@cooperscully.com	8/31/2021 11:10:30 AM	SENT
Miranda Roberts		miranda.roberts@cooperscully.com	8/31/2021 11:10:30 AM	SENT

Associated Case Party: CHARLES POOLE

Name	BarNumber	Email	TimestampSubmitted	Status
Claudia Mendoza		cmendoza@maryelaw.com	8/31/2021 11:10:30 AM	SENT
Christina Wies		cwies@maryelaw.com	8/31/2021 11:10:30 AM	SENT
Monica I. Bohuslav		mbohuslav@maryelaw.com	8/31/2021 11:10:30 AM	SENT
Eric H Marye		service@maryelaw.com	8/31/2021 11:10:30 AM	SENT

# **TAB NO. 7**

**CAUSE NO. CC-21-03100-A**

<b>CHARLES POOLE</b> <b>PLAINTIFF,</b>  <b>v.</b>  <b>WALMART, INC., WAL-MART STORES</b> <b>TEXAS, LLC</b>  <b>DEFENDANTS.</b>	§ § § § § § § §	<b>IN THE COUNTY COURT</b>    <b>AT LAW NO. 1</b>    <b>DALLAS COUNTY, TEXAS</b>
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**DEFENDANT WAL-MART STORES TEXAS, LLC'S  
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW**, WAL-MART STORES TEXAS, LLC (“Defendant”) (incorrectly named Walmart, Inc.), Defendant in the above-styled and numbered cause, and files this Original Answer, and in support hereof would respectfully show unto the Court the following.

**I.**

**GENERAL DENIAL**

1. Defendant denies each and every, all and singular, the material allegations made and contained in the Original Petition and any petition which Plaintiff may hereinafter file by way of amendment or supplement, and, in accordance with Texas law, demands that Plaintiff prove by a preponderance of the credible evidence each and every such allegation made and contained therein, or the prevailing standard of proof required by applicable law.

**II.**

**AFFIRMATIVE DEFENSES**

2. Pleading further, and in the affirmative, Defendant asserts the doctrine of comparative causation as set forth in Chapter 33 of the TEXAS CIVIL PRACTICE & REMEDIES

CODE, which may bar any recovery by Plaintiff, or may in the alternative reduce the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

3. Pleading further, if necessary, Plaintiff failed to mitigate Plaintiff's damages which may have resulted from the occurrence made the basis of this lawsuit.

4. In the alternative, and without waiving the foregoing, Defendant affirmatively pleads the defense set forth in TEXAS CIVIL PRACTICE & REMEDIES CODE § 18.091, requiring Plaintiff to prove Plaintiff's loss of earning and/or loss of earning capacity in the form which represents Plaintiff's net loss after reduction for income tax payments or unpaid tax liability on said loss or earning claim pursuant to any federal income tax law. *Id.* Additionally, Defendant requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal to state income taxes.

5. Additionally, to the extent Plaintiff's medical expenses exceed the amount actually paid on Plaintiff's behalf to Plaintiff's medical providers, Defendant asserts the statutory defense set forth in § 41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE. Thus, recovery of medical or health care expenses incurred by Plaintiff, if any, are limited to the amount actually paid or incurred by or on behalf of Plaintiff.

6. Pleading further, Defendant would show that they are entitled to a credit or offset equal to the amount of any and all sums that the Plaintiff has received, or may hereinafter receive, by way of settlement with any person or party. Alternatively, pursuant to Rule 48 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant contends that they are entitled to a proportionate reduction of any damages found against them based upon the percentage of negligence attributable to the settling tortfeasor, cross claimant, designated third party, or other party to this case.



7. Pleading further, and in the affirmative, Defendant alleges Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in § 304.101 of the TEXAS FINANCE CODE and § 41.007 of the TEXAS CIVIL PRACTICE & REMEDIES CODE.

8. Pleading further, and in the affirmative, Defendant invokes §41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE concerning Plaintiff's claim for the recovery of health care expenses and other related damages, past and future.

9. Pleading further, and in the affirmative, Defendant asserts the doctrine of proportionate responsibility of TEXAS CIVIL PRACTICE & REMEDIES CODE Chapter 33, which may bar any recovery by Plaintiff, or may in the alternative, reduce the amount of recovery by Plaintiff based on Plaintiff's own percentage of fault.

10. Pleading further, and in the affirmative, Defendant would show that the alleged occurrence made the basis of this lawsuit was the result of circumstances and/or events that were not of Defendant's own creation. Defendant would further show that they acted just as a similar situated reasonable premises owner would have acted under the same or similar circumstances surrounding the matters made the basis of this lawsuit.

11. Pleading further, and in the affirmative, Defendant alleges that the injuries and damages alleged by Plaintiff may be due to Plaintiff's own negligence and recklessness in that Plaintiff's failure to exercise ordinary care proximately caused, in whole or in part, the alleged injuries and damages complained of by Plaintiff. Plaintiff's acts and omissions, whether taken together or separately, may be the sole proximate cause, or a proximate cause of the injuries and damages Plaintiff has alleged in this lawsuit. Any recovery by Plaintiff is therefore barred, or alternatively should be reduced in accordance with the applicable law.

12. Pleading further, and in the affirmative, the injuries plead by Plaintiff may have

been caused, in whole or in part, by superseding and/or intervening causes, including preexisting conditions and/or injuries and subsequently occurring injuries and/or conditions that were not Defendant's own creation.

13. Pleading further, if necessary, Plaintiff's claims may have been caused by an unavoidable accident, Act of God, or an occurrence without any fault on the part of Defendant.

**III.**

**NOTICE OF INTENT**

14. Defendant further places plaintiff on notice pursuant to TEXAS RULE OF CIVIL PROCEDURE 193.7 that may use in pretrial proceedings or at trial any and all documents and tangible things produced in discovery by plaintiff.

**IV.**

**DEMAND FOR JURY TRIAL**

15. In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant hereby demands a trial by jury.

**WHEREFORE, PREMISES CONSIDERED,** Defendant prays that Plaintiff take nothing by this suit against Defendant, that Defendant be discharged, and that the Court grant such other and further relief, both general and special, at law and in equity to which Defendant may be justly entitled.



Respectfully submitted,

**COOPER & SCULLY, P.C.**

By: /s/ Derek S. Davis

**DEREK S. DAVIS**

Texas Bar No. 00793591

Email: [Derek.Davis@CooperScully.com](mailto:Derek.Davis@CooperScully.com)

**MIRANDA K. ROBERTS**

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900 Jackson Street, Suite 100

Dallas, Texas 75202

Telephone: (214) 712-9500

Facsimile: (214) 712-9540

**ATTORNEYS FOR DEFENDANT  
WAL-MART STORES TEXAS, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27th day of August, 2021, a true and correct copy of the foregoing document was served on counsel of record *via* the Court's ECF filing service as follows:

**Eric H. Marye**

**Monica I. Bohuslav**

2619 Hibernia Street

Dallas, Texas 75204

Telephone: (214) 987-8240

Facsimile: (214) 987-8241

Email: [service@maryelaw.com](mailto:service@maryelaw.com)

[mbohuslav@maryelaw.com](mailto:mbohuslav@maryelaw.com)

**ATTORNEYS FOR PLAINTIFF**

/s/ Derek S. Davis

**DEREK S. DAVIS**

# **TAB NO. 8**



**DEREK S. DAVIS, RPH, JD**  
Licensed to Practice Law in Texas and California  
Licensed to Practice Pharmacy in Texas

214-712-9537  
Derek.Davis@cooperscully.com

August 27, 2021

**VIA ELECTRONIC FILING**

Clerk of the County Court at Law No. 1  
George L. Allen, Sr. Courts Building  
600 Commerce Street  
5th Floor New Tower  
Dallas, TX 75202

Re: Cause No. CC-21-03100-A; *Charles Poole v. Walmart, Inc., Wal-Mart Stores Texas, LLC*; pending in the County Court at Law No. 1, Dallas County, Texas.

Dear Clerk of the Court:

Please allow this correspondence to serve as our jury demand in the above-referenced cause. The jury fee is being paid with this filing.

Thank you.

Very truly yours,

/s/ Derek S. Davis  
Derek S. Davis, RPh, JD

DSD:km

cc: **Via Electronic Filing**  
**Eric H. Marye**  
**Monica I. Bohuslav**  
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